

EXHIBIT 3

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4. — — —

5 IN RE: NATIONAL PRESCRIPTION : MDL NO. 2804
OPIATE LITIGATION :
6 _____: :
: :
7 THIS DOCUMENT RELATES TO: : Case No. 17-md-2804
: Judge Dan A. Polster
8 Case Track 8 :
_____: :
9

10 Friday, December 2, 2022

11 HIGHLY CONFIDENTIAL
SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

13 Remote videotaped deposition of
14 KATHERINE S. LEONARD, commencing at 9:05 a.m., on the
15 above date, before Carol A. Kirk, Registered Merit
16 Reporter, Certified Shorthand Reporter, and Notary
17 Public.

18

19

20

21

22

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1 R E M O T E A P P E A R A N C E S

2 - - -

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24 ALSO PRESENT:

Brannen Wilson, Publix
Bill Geigert, Videographer
Gina Veldman, Trial Tech

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P R O C E E D I N G S

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THE VIDEOGRAPHER: Good morning.

5

We are now on the record. My name is

6

Bill Geigert. I'm a videographer for

7

Golkow Litigation Services.

8

Today's date is December 2, 2022,

9

and the time is 9:05 a.m. This remote

10

video deposition is being held in the

11

matter of National Prescription Opiate

12

Litigation for the United States

13

District Court for the Northern District

14

of Ohio, Eastern Division.

15

The deponent is Kathy Leonard.

16

All parties to this deposition are

17

appearing remotely and have agreed to

18

the witness being sworn in remotely.

19

Due to the nature of remote

20

reporting, please pause briefly before

21

speaking to ensure all parties are heard

22

completely.

23

All counsel will be noted on the

24

stenographic record.

1 The court reporter is Carol Kirk,
2 and she will now swear in the witness.

3 - - -

4 KATHERINE S. LEONARD

5 being by me first duly sworn, as hereinafter
6 certified, deposes and says as follows:

7 CROSS-EXAMINATION

8 BY MS. BURNS:

9 Q. Good morning, Ms. Leonard. My
10 name is Sarah Burns. We met briefly off the
11 record before this deposition. I represent
12 plaintiff, Cobb County, and other plaintiffs
13 around the country in this litigation.

14 May I -- would you please state
15 your full name and spell your full name for the
16 record.

17 A. Sure. My full name is Katherine,
18 K-a-t-h-e-r-i-n-e, middle name is Schroder,
19 S-c-h-r-o-d-e-r, and my last name is Leonard,
20 L-e-o-n-a-r-d.

21 Q. Have you gone by any other names
22 during the course of your career at Publix?

23 A. Yes, I have gone by other names in
24 the course of my career at Publix.

1 A. Yeah, Publix has opened more
2 stores since 2019. In the time that this
3 PowerPoint was presented, that was the number of
4 Publix pharmacies which differs from the number
5 of Publix stores.

6 Q. And about how many Publix
7 pharmacies does Publix operate currently?

8 A. Currently, I would say 1,200
9 and -- maybe 1,232.

10 Q. And earlier you testified that
11 during your time as a pharmacy supervisor, that
12 each pharmacy employed two -- usually employed
13 two pharmacists.

14 Is that the case today?

15 A. It's still the standard for the
16 pharmacy business, depending on individual
17 business at a location. If volume is higher,
18 they may earn additional overlap pharmacist
19 hours or an additional pharmacist at their
20 location. As business grows, more labor is put
21 into those stores.

22 Q. But the standard is two
23 pharmacists per store, correct?

24 A. It's based off of business. So

1 had paper or something, but I'm not certain.

2 Q. Where would you look to determine
3 if you have notes of this meeting?

4 A. I would look in my e-mail.

5 Q. And were there subsequent meetings
6 after this one of the opioid task force?

7 A. Not that I recall.

8 Q. So this was the first and only
9 meeting of the opioid task force?

10 A. That is my recollection. Yes.

11 Q. Did Marlana Kelley or Patrick
12 Cashman (inaudible) at this meeting?

13 A. You broke up, Sarah. Can you
14 repeat that?

15 Q. Did Marlana Kelley or
16 Patrick Cashman speak during the opioid task
17 force portion of this meeting?

18 A. I think the meeting was a
19 discussion. I think Kim kind of took the lead
20 on expressing her thoughts like she had done
21 previously at the advocacy meeting, and I think
22 it was a discussion from that that all of the
23 attendees, to some degree, would have
24 participated. I don't remember specifics.

1 Marlena and Patrick don't stand
2 out to me as much in my memory as Kim, but that
3 may just be because it was her initial feedback
4 as well. But I don't have full recollection of
5 that meeting and who presented what or the
6 extent of time that they took up in that
7 two-hour time slot.

8 Q. Were there any action items
9 created as a result of the opioid task force
10 portion of this meeting?

11 A. I don't recall specific action
12 items that came out as a result.

13 Q. Were there any follow-up items
14 developed as a result of the opioid task force
15 portion of this meeting?

16 A. I don't recall any specific
17 follow-up action items.

18 Q. Were there any projects planned as
19 a result of the opioid task force portion of
20 this meeting?

21 A. I don't recall.

22 Q. Were there any materials presented
23 during the course of the opioid task force
24 portion of this meeting?

1 A. I recall this as being a
2 discussion led by Kim, and then open discussion
3 amongst a group of pharmacists.

4 Q. You do not recall any materials
5 being presented as a part of the opioid task
6 force portion of this meeting?

7 A. I do not have documents. I
8 remember it being a discussion that was led by
9 Kim, and then a discussion with -- I'm sorry --
10 with a group of attendees that at all levels are
11 pharmacists.

12 So when I say a group of
13 pharmacists having the discussion, I'm not just
14 referring to Kim, Marlana, and Patrick. It was
15 a discussion for that whole group of
16 pharmacists.

17 Q. Yeah, I'm not asking if you have
18 any documents pertaining to this meeting. I'm
19 asking you if you recall any documents being
20 shown or distributed at this meeting.

21 A. I do not.

22 Q. Do you recall if Kim Barnard,
23 Marlana Kelley, or Patrick Cashman ever gave any
24 other presentations or discussions as part of

1 their roles as members of the Publix opioid task
2 force?

3 A. I'm not aware of any.

4 Q. Did you assign them to give any
5 presentations or participate in any discussions
6 as members of Publix opioid task force?

7 A. I did not give them that direction
8 or any assignment to present any further.

9 Q. Are you aware of them giving any
10 presentations or participating in any
11 discussions as members of Publix opioid task
12 force?

13 A. I feel like that's the same
14 question. Did I miss something in that? Can
15 you repeat that? That's not the same question
16 you just asked me?

17 Q. No. The question I asked you
18 previously was whether you assigned them to give
19 any discussions or presentations.

20 I'm asking you if you are aware of
21 any discussions or presentations.

22 A. I'm not.

23 Q. Okay. Do you know if there's a
24 different Publix opioid task force anywhere

1 other than the one that first met on May 5,
2 2021?

3 A. I am not aware of anything beyond
4 this team that I put together, I named, to give
5 them a platform for collaboration as
6 pharmacists.

7 Q. Is Kim Barnard still with Publix?

8 A. Yes. Kim Barnard is still with
9 Publix.

10 Q. Is Marlana Kelley still with
11 Publix?

12 A. She is still with Publix.

13 Q. Is Patrick Cashman still with
14 Publix?

15 A. Yeah, Patrick Cashman is still
16 with Publix.

17 Q. Is there an official date that the
18 Publix opioid task force disbanded.

19 A. I don't know that it was that
20 formal for me to know I needed to disband
21 something. I think I named it something that
22 would seem important to the members that are on
23 it. So I thought that had a strong -- it was a
24 strong title.

1 But to me, it was taking feedback
2 from one, giving her the opportunity to
3 collaborate with other pharmacists and present
4 to me where she felt any additional information
5 is needed on top of what we already do.

6 And in that presentation, felt
7 more like it was trying to create a new role for
8 Kim or for one individual based on what was
9 presented. In my opinion, we have more
10 resources across our company that are focused on
11 that.

12 Kim just doesn't have the same
13 range of view because she's in one store. So I
14 didn't -- I didn't feel the need to continue it
15 based on the feedback that I -- that was
16 presented in that meeting.

17 Q. Did you consider continuing the
18 opioid task force but not including Kim Barnard
19 as part of the task force?

20 A. No. That was never a
21 consideration. There just -- I didn't see the
22 need to continue.

23 Q. You didn't see a need to continue
24 the opioid task force?

1 A. Yeah. Based on what was
2 presented, there were things that we were
3 already doing in our stores on a bigger scale
4 than what was presented. So I didn't think that
5 that was the right direction to go, to single it
6 out to Kim. I felt like we had strong resources
7 across, you know, our states with our
8 supervisors that are pharmacists.

9 - - -

10 (Leonard Deposition Exhibit 10 marked.)

11 - - -

12 BY MS. BURNS:

13 Q. Okay. Let's take a look at
14 P-PUB-728.

15 Does this document look familiar
16 to you?

17 MS. WHITE: Hold on one second.

18 I'm just getting -- moving it over here.

19 I didn't want to open anything that I
20 wasn't supposed to open.

21 Okay. I'm good.

22 A. This I feel like I saw as part
23 of -- I've seen it. Yes, I've seen this.

24 Q. You've seen this. And did you see

1 someone else. You're a licensed professional
2 who can make that decision.

3 I think she's implying that when
4 that conversation is a difficult conversation to
5 have or maybe a refusal to fill, that you have
6 that support, and I believe our teams do.

7 Q. And then let's look at the end
8 goal here. "The pharmacist dispensing the
9 at-risk medications (or to the at-risk patient)
10 should document the interactions so well that
11 anyone coming behind them will not have any
12 reason to question their decision. This would
13 include other pharmacists, supervisors, DEA
14 agents, or state inspectors."

15 Do you agree with that statement?

16 A. I'm not opposed to documentation,
17 but how things are documented and in what way
18 can be equally as damaging, if it's not conveyed
19 in the right way, or could prevent care for a
20 patient that hasn't been well thought out.

21 So additional feedback in a note
22 by one pharmacist, I don't want that to be
23 automatically applied and affect the judgment of
24 the next pharmacist because that pharmacist

1 claims X, Y, or Z about a patient. I want it to
2 be the individual judgment of a pharmacist.

3 So I am not opposed to
4 documentation. It's not a requirement. I still
5 emphasize the fact that a trained professional
6 pharmacist has the ability to have a
7 conversation with the patient and arrive at
8 those decisions and without a requirement of
9 documenting every detail of that conversation
10 that led them to their decision to fill or not.

11 - - -

12 (Leonard Deposition Exhibit 11 marked.)

13 - - -

14 BY MS. BURNS:

15 Q. Okay. We can finish with this
16 document.

17 We are going to move -- we are
18 going to completely change what we're doing here
19 and Gina is going to put up P-PUB-732, which is
20 not in your box or in front of you because it's
21 a video. So it's like in school when all the
22 kids get really excited because the AV part
23 rolls in.

24 So quickly I'm just going to ask

1 video?

2 A. I did not help him put together
3 the video.

4 Q. Have you seen the video?

5 A. I have seen the video.

6 - - -

7 (Leonard Deposition Exhibit 14 marked.)

8 - - -

9 MS. BURNS: Okay. Let's watch the
10 video.

11 (The following video clip was
12 played.)

13 "Dain Rusk: Good morning or
14 afternoon for those of you that are
15 attending the afternoon managers
16 meetings.

17 "It's been about six months since
18 I last had the opportunity to talk to
19 you prior to our last managers meeting,
20 but I really wanted to take some time to
21 really talk about all the great things
22 that we've accomplished in 2018 and even
23 in the past six months.

24 "And first and foremost, what I

1 would tell you is that what I'm so proud
2 of and the greatest accomplishment that
3 I think that we've had is we ended 2018
4 with Publix pharmacy being the number
5 one pharmacy chain in the industry.

6 "That's an amazing accomplishment
7 and congratulations to each one of you
8 as well as your teams for achieving
9 something that probably never felt like
10 could be achieved in the first place.

11 "And I would tell you we've become
12 the envy of our competition. Publix
13 pharmacy was the number one performing
14 pharmacy in terms of sales and
15 prescriptions for all of 2018."

16 (Video stopped.)

17 BY MS. BURNS:

18 Q. Ms. Leonard, is that Dain Rusk on
19 the screen in front of us?

20 A. That is Dain Rusk on the screen in
21 front of us.

22 Q. And is Mr. Rusk currently the vice
23 president of pharmacy at Publix?

24 A. Yes, he is currently the vice

1 president.

2 Q. And was he the vice president of
3 Publix at the time this video was shown to
4 pharmacy managers back in the second quarter of
5 2019?

6 MS. WHITE: Object to form.

7 A. He was the vice president of
8 pharmacy, not of Publix, but Publix pharmacy.

9 But this also isn't the video that
10 I was thinking. This was not, I don't believe,
11 his introductory video. And he referenced that
12 almost like this was a second video. So my year
13 of his first introduction -- this doesn't sound
14 like the first introductory video that he did.
15 So this may be the second one.

16 So my -- when he started may be
17 off by a year, because I feel like he did that
18 when he first started. It was well received, so
19 I think this is him doing it again when we
20 asked.

21 Q. Have you seen this second video
22 before?

23 A. I have seen this video.

24 Q. And do you happen to know where if

1 with hard work and effort on each one of
2 you.

3 "As you recall from our last
4 meeting, we talked about how we were
5 going to narrow our focus and really
6 focus on those things that matter the
7 most so we could drive our business to
8 be more successful, to be more
9 foundationally sound is what I would
10 say.

11 "And it's a testament to you and
12 your teams that we did exactly that. We
13 had the best performing year of Publix's
14 pharmacy in 2018. We ended 2018 at
15 \$3.6 billion. That's the most
16 successful year that we've ever had at
17 Publix pharmacy.

18 "And, again, that's because of the
19 effort that each one of you and your
20 teams put forth to just make sure that
21 we were taking care of our customers and
22 our patients each and every day.

23 "You know, fast-forward, that
24 momentum carried us into 2019. And,